IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3276 of 2004

For Approval and Signature:

HON'BLE MR.JUSTICE K.S.JHAVERI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

GOKAJI BABUJI BIHOLA

Versus

NATWARBHAI VIRABHAI PURABIYA

Appearance:

1. Special Civil Application No. 3276 of 2004

MR JV JAPEE for Petitioner No. 1

MR BG JANI for Respondent No. 1-3

CORAM : HON'BLE MR.JUSTICE K.S.JHAVERI

Date of decision: 05/10/2004

ORAL JUDGEMENT

1. RULE. Mr.B G Jani learned advocate waives service of rule on behalf of the respondents. With the

consent of learned counsel for the parties, the matter is taken up for hearing today.

2. The petitioner herein has preferred this petition in order to quash and set aside the order passed by the learned Asst.Judge, Ahmedabad (Rural), Gandhinagar, in Civil Misc.Appeal No.9 of 2000 and also the order below exh.5 passed by the learned Civil Judge (S.D.), Gandhinagar, in R.C.S. No.113 of 1999.

3. Mr.J V Japee learned advocate for the petitioner has submitted that as per the map at Annexure-C, page 36 to the petition, the respondents have an alternative way i.e. on the northern end of the land Survey Nos.505 and 506, which is wide enough (6'4") for passage.

4. On 15/03/2004, this Court while issuing Notice had granted ad-interim relief in terms of para 9(b) of the petition. Mr.B G Jani learned advocate for the respondents has submitted that without entering into the merits of the matter, it would be appropriate if this Court directs the trial Court to expedite the hearing of the suit because any observation made by this Court will affect the case of either side. In my view, the submission made by Mr.Jani is required to be accepted.

5. Hence, the trial Court is directed to expedite the hearing of the said suit and to dispose it of within a period of two years from the date of receipt of writ of this order. However, it is made clear that the trial Court will not be influenced by the grant of ad-interim relief by this Court and will adjudicate the said suit in accordance with law, after considering the evidence which may be adduced by both the sides.

6. With the above observations and direction, the petition is partly allowed. Rule is made absolute to the aforesaid extent. Ad-interim relief granted earlier by this Court to continue till the final disposal of the suit.

(K. S. Jhaveri, J.)

pravin/